

Contract
Between the State of Tennessee
And

Name of Student
And

Name of Parent/Guardian

This Contract, by and between the State of Tennessee, Department of Health, hereinafter referred to as the “Department of Health” or “Department” and _____ (name of student) and _____ (name of parent/guardian) hereinafter referred to as “You,” is for the creation of a short advertisement that will discourage smoking and/or the use of tobacco products (including smokeless and electronic products) and/or encourage people to quit smoking or to quit using tobacco products and as further described in this Contract.

1. DEFINITIONS.

a. **“You”** and **“Your”** shall include both the student making the submission and the parent/legal guardian of the student making the Submission.

b. **“Submission”** shall mean a short advertisement as described in paragraph 2 of this Contract discouraging smoking and/or the use of tobacco products (including smokeless and electronic products) and/or encouraging people to quit smoking and/or encouraging people to quit using tobacco products created only by an Eligible Student and solely in response to this Contract. Any Submission created or submitted by anyone other than an Eligible Student will be automatically disqualified without any notice.

c. **“Eligible Student.”** Every Submission shall be created and submitted by an Eligible Student which shall mean a person who is:

- i. an American citizen;
- ii. a resident of the State of Tennessee; and
- iii. enrolled in a Tennessee high school for the school year of 2017/2018.

d. **“Winning Submissions”** shall mean up to three Submissions chosen by the Review Committee.

2. SCOPE OF SERVICES. Your Submission that You send to the Department of Health SHALL fulfill the following criteria:

a. Your Submission **SHALL NOT** contain any curse words, foul language, or suggestive language. Any Submission containing any curse words, foul language or suggestive language will be automatically disqualified without any notice. This includes verbal and written expressions.

b. Your Submission **SHALL NOT** contain any sexual content – no nudity, no scantily clad people, no sexually suggestive behavior, and no sexually explicit language. Any Submission containing any sexual content, nudity, scantily clad people, sexually suggestive behavior, or sexually explicit language will be automatically disqualified without any notice. Additionally, You are WARNED that sending pornographic images of persons under the age of 18 via the

Internet is a serious crime that will be reported to the state and/or local police, sheriff, Tennessee Bureau of Investigation and/or Federal Bureau of Investigation.

c. Your Submission SHALL be about choosing not to use tobacco products and/or ceasing to use tobacco products. Submissions about any other subject matter will be automatically disqualified without any notice.

d. Every person appearing in your Submission will need to agree in writing by signing the "Video/Photograph Release Form" attached hereto. You will not need a Video/Photograph Release Form for footage of people in public spaces such as people walking along public streets. Any person you ask to play a role in your Submission will need to sign a Video/Photograph Release Form. Additional copies can be obtained by emailing TNSTRONG.health@tn.gov. Each person under the age of 18 will need to have the form signed by his/her parent/legal guardian. If you appear in your Submission you will also need to sign a Video/Photograph Release Form and if you are under the age of 18 you will need the form signed by your parent/legal guardian. You may make copies of the signed forms to keep for yourself, but the original signed forms SHALL be sent by U.S. Mail to the Department of Health as set out in paragraph 2.h.

e. Your Submission SHALL be in a format that can be uploaded and viewed on YouTube, be no longer than 60 seconds and no shorter than 30seconds. The video must be high resolution.

f. Your Submission SHALL be uploaded to Your private YouTube channel, marked as private, and a link SHALL be emailed to TNSTRONG.health@tn.gov by **5:00p.m. Central Standard Time on May18th, 2018**. The email to TNSTRONG.health@tn.gov SHALL also include the following:

- (i) The email subject line should be, "TNSTRONG Video Submission Link";
- (ii) The email body SHALL also contain Your full name, the name of Your Submission, your school name, and your city of residence;
- (iii) pdf scans of every signed Video/Photograph Release Form from each individual appearing in Your Submission including signatures from the parent/legal guardian when necessary;
- (iv) pdf scan of this signed Contract signed by You and Your parent/legal guardian.

g. The original signed documents – all signed Video/Photograph Release Forms and the original signed Contract – **SHALL also** be sent by U.S. Mail **postmarked no later than May 18, 2018** and mailed to TNSTRONG Media c/o Tennessee Department of Health, 710 James Robertson Parkway, 8th Floor, Nashville, TN 37243. If you email a submission to the TNSTRONG address without also sending the paper documents Your Submission will be automatically disqualified without notice.

h. By signing this Contract you also agree that no person shall be excluded from participation in Your Submission due to discrimination on the grounds of disability, race, color, religion, gender, or national origin.

3. OWNERSHIP OF SUBMISSION AND RIGHTS TO SUBMISSION. You and the Department of Health acknowledge that the Submission created by You is being specially created in response to the request made by the Department of Health, made according to the Department's specifications. The obligations under this paragraph 3 shall survive expiration or termination of this Contract and any amendments hereto.

a. "Winning Submissions" shall belong exclusively to the Department. If Your Submission is chosen by the Review Committee as one of the Winning Submissions You agree, in addition to the entire Contract, to the terms in paragraphs 3(a) through 3(e) of this Contract. You hereby irrevocably waive all rights in and to Your Submission. You assign to the Department the ownership of the copyright to Your Submission. The Department shall have the right to obtain and hold, in its own name, copyrights, registrations and similar protection which may be available for Your Submission. You hereby grant, assign and convey to the Department all right, title and interest in Your Submission. You agree that You will not seek patent, copyright, trademark, registered design or other protection for any rights in Your Submission. You agree that, at the Department's expense, You shall perform all acts reasonably necessary and execute all documents the Department may reasonably require to vest in the Department the rights referred to herein and to secure for the Department all patent, trademark, trade secret, copyright, and other protection.

b. The Department shall have the right to use Your whole Submission, any part or parts thereof, or none of Your Submission, as the Department sees fit. The Department may alter Your Submission, add to it, or combine it with any other Submissions, at the Department's sole discretion. Notwithstanding the foregoing, all original material submitted by You as part of Your Submission or as part of the process of creating Your Submission shall be the property of the Department. No rights to Your Submission are reserved by You.

c. In creating Your Submission You shall not utilize any item or artistic work protected by copyright or trademark without express permission from the owner of the copyright or trademark. In creating Your Submission You shall not infringe on any item or artistic work protected by copyright or trademark and any item or artistic work protected by copyright or trademark will either be specifically excluded from Your Submission and/or removed from Your Submission by editing prior to its submission. The Department reserves the right to request You resubmit Your Submission without the infringing material.

d. You shall not have the right to disclose or use Your Submission for any purpose whatsoever and shall not communicate to any third party Your Submission except as provided in paragraph 3.e. herein.

e. Your Submission may be used by You during the entirety of your life only in the following ways:

- (i) Applications to an accredited institution of higher learning offering one of the following: an associate degree, a bachelor's degree, a professional degree, a master's degree, or a doctorate degree; or
- (ii) Applications for employment; or
- (iii) In a portfolio of Your work or artwork.

4. CHOOSING "WINNING SUBMISSIONS." A Review Committee comprised of members of the Tennessee Department of Health's Tobacco Control and Prevention Program and expert partners will review every Submission that fully complied with paragraphs 2 and 3. All committee members will review all Submissions complying with paragraph 2 of this Contract. The committee shall determine and rank up to three winning submissions. The committee will be the sole arbiter of which Submissions are chosen as winning submissions. The committee reserves the right to choose one, two, or three winning submissions and the rank of each, depending upon the number and quality of submitted works. The committee's decision will be based upon their evaluation of the criteria listed herein, and the committee's subjective evaluation of the Submission's applicability to Tennessee, the Submission's ability to convince

Tennesseans to quit using tobacco products (including smokeless and electronic products) and/or never use tobacco products (including smokeless and electronic products) and the Submission's overall artistic design and artistic merit.

5. SCHOLARSHIPS. The Campaign for Tobacco Free Kids will be providing the scholarships awarded by the Department. The scholarships awarded will be: a prize of \$ 1,000.00 to the first place winner; a prize of \$ 500.00 to a second place winner; and a prize of \$ 250.00 to a third place winner. Nothing in this Contract creates or is intended to create an ongoing obligation for Campaign for Tobacco Free Kids, the Department or the State of Tennessee to offer *this prize* for any other year than the 2017/2018 school year. Whether or not this particular program is offered only once, is offered again, or is offered for several years is solely within the discretion of the Campaign for Tobacco Free Kids, the Department and the State of Tennessee. The amount of the *prize(s) offered* is solely within the discretion of Campaign for Tobacco Free Kids. Any statements or oral promises to the contrary are not binding on The Campaign for Tobacco Free Kids, the Department, or on the State of Tennessee.

6. RESPONSIBILITIES OF FIRST, SECOND, AND THIRD PLACE WINNERS.

a. Every person winning a *prize*, first, second or third place, agrees to participate in any and all events involving the award of the prizes unless explicitly agreed upon by the State, in advance of the specific event, and any and all publicity occurring the day the prizes are awarded. Events and publicity include but are not limited to: Your respectful introduction to your winning Submission; Your polite and kind participation in a questions and answer session(s) with other students and the media about Your Submission, Your public acceptance of your *prize* in front of an audience and news media, Your appearance in professional photographs accepting your prize and posing with your prize and other people including but not limited to the Commissioner of Health, members of the Department of Health, State officials, and/or members from the Tennessee Office of the Attorney General. In addition to Your participation in any and all events and publicity, You shall attend and participate in all the events of the TNSTRONG Summit from June 3-5, 2018 in Chattanooga, Tennessee. All your expenses, travel, food, and hotel will be covered by the Department of Health for your attendance at the TNSTRONG Summit June 3-5 in Chattanooga, Tennessee. Failure to attend and participate in the TNSTRONG Summit June 3-5, 2018 shall be a breach of this Contract and result in forfeiture of Your prize and scholarship which will be awarded to another participant.

b. The Department of Health shall have the right to use all images, speeches, recorded statements, and any and all media from the events involving the award of your *prize* and all images, speeches, recorded statements, and any and all media of you from any and all publicity occurring the day the *prizes* are awarded, collectively referred to as "Publicity" for any purpose whatsoever. The Department may use all the Publicity, any part or parts of the Publicity, or none of the Publicity as the Department sees fit. The Department may alter the Publicity, add to it, or combine it with the Publicity of any other prize winners or any Submissions, at the Department's sole discretion. Notwithstanding the foregoing, all the Publicity in the possession of the Department of Health shall be the property of the Department of Health with no rights reserved by You.

7. SURVIVAL AFTER TERMINATION. The obligations under paragraph 3 and 4 shall survive expiration or termination of this Contract and any amendments hereto.

8. MODIFICATION. This Contract may be modified only by written amendment signed by all the parties.

9. **TERMINATION FOR CONVENIENCE.** The Department may terminate this Contract without cause for any reason and this termination shall not be a breach of contract by the Department and You shall not be entitled to any actual, general, special, incidental, consequential or any other damages whatsoever of any description or amount.

10. **TERMINATION FOR CAUSE.** If You violate any of the terms of this Contract the Department shall have the right to immediately terminate this Contract.

11. **TERMINATION FOR LACK OF FUNDS.** In the event that the funds are unavailable, the State reserves the right to terminate the Contract upon written notice to You. This termination shall not be deemed a breach of Contract by the State or the Department. Upon receipt of written notice, You shall cease all work associated with the Contract. Sufficient notice shall be written notice sent via U.S. Mail to the address You provide as, "home address of Student."

12. **LIMITATION OF STATE'S LIABILITY.** The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to You or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. You agree any rights or claims against the State of Tennessee or its employees under this Contract, and any remedies from those rights or claims shall be subject to and limited to those rights and remedies, if any, available under Tennessee Code Annotated, Sections 9-8-101 through 9-8-408.

13. **NOTICE.** In the event of any suit or claim, the parties shall give each other immediate notice and provide all necessary assistance. This Section shall not grant You the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106. Sufficient Notice for You shall be via regular U.S. Mail to the address of both the Student and Parent/Guardian You provide as, "home address of Student" and "home address of Parent/Guardian." Sufficient Notice to the State of Tennessee shall be by sending written notice via U.S. Mail to the Office of the Tennessee Attorney General.

14. **GOVERNING LAW.** This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. You agree to be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract.

15. **COMPLETENESS.** This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating to this subject matter, whether written or oral.

16. **SEVERABILITY.** If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.

17. **HEADINGS.** Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

STATE OF TENNESSEE, DEPARTMENT
OF HEALTH

STUDENT

Print full name of Student

Print name of Student's High School

Print home address of Student

Signature of Student

Date

PARENT/GUARDIAN

Print full name of Parent/Guardian

Print relationship of Parent/Guardian to
Student

Print home address of Parent/Guardian

Signature of Parent/Guardian

Date